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**REGULAR**

**NUMBER:** 101.19

**TITLE:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF MILPITAS AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM. TO PROVIDE SECTION 21548 (PRE-RETIREMENT OPTIONAL SETTLEMENT 2 DEATH BENEFIT) AND SECTION 21574 (FOURTH LEVEL OF 1959 SURVIVOR BENEFITS) FOR LOCAL POLICE MEMBERS ONLY

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by Council member \_\_\_\_\_ and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by Council member \_\_\_\_\_. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Steven T. Mattas, City Attorney

**ORDAINING CLAUSE:**

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

That an amendment to the contract between the City Council of the City of Milpitas and the Board of Administration of the California Public Employees' Retirement System is hereby amended as follows:

Section 1: That an amendment to the contract between the City Council of the City of Milpitas and the Board of Administration, California Public Employees' Retirement system is hereby authorized, a copy of said amendment being attached hereto; marked Exhibit, and by such reference made a part hereof as though herein set out in full.

Section 2: The Mayor of the City Council is hereby authorized, empowered and directed to execute said agreement for and on behalf of said Agency

Section 3: This Ordinance shall take effect September 5, 2006, and prior to the expiration of 20 days from the passage thereof shall be published at least one in the Milpitas Post, a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara, thenceforth and thereafter the same shall be in full force and effect.

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

P.O. Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF GOVERNING BODY'S ACTION**

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_  
(date)

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

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**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code  
the future annual costs as determined by the System Actuary for the increase  
in retirement benefit(s) have been made public at a public meeting of the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_ which is at least two weeks prior to the adoption of the  
(date)

Resolution / Ordinance.

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

Date \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF INTENTION TO  
APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE BOARD OF  
ADMINISTRATION CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND  
THE CITY COUNCIL OF THE CITY OF MILPITAS

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedure to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21548 (Pre-Retirement Optional Settlement 2 Death Benefit) and Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby give notice of intention to approve an amendment to the contract between the City of Milpitas and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment is attached, as an "Exhibit" and by this reference made a part hereof.

PASSED AND ADOPTED this \_\_\_\_\_ of \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven T. Mattas, City Attorney



**EXHIBIT**

California  
Public Employees' Retirement System

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**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Milpitas

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The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective July 1, 1962, and witnessed June 15, 1962, and as amended effective March 1, 1963, April 1, 1973, September 28, 1973, January 1, 1974, July 1, 1976, July 1, 1980, May 13, 1984, May 21, 1989, April 22, 1990, July 6, 1990, October 4, 1992, September 17, 1993, December 6, 1996, May 8, 1998, July 18, 1999, July 16, 2000, June 2, 2002 and October 6, 2002 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective October 6, 2002, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1962 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
  - a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Employees other than local safety members (herein referred to as local miscellaneous members).
4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

**NO ADDITIONAL EXCLUSIONS**

5. Public Agency and the Milpitas Fire Protection District have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Milpitas Fire Protection District, pursuant to Section 20567.5 of the Government Code. Such merger is effective as of July 1, 1962. Legislation repealed said Section effective January 1, 1988.
6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment before and not on or after June 2, 2002 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1972, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members in employment on or after June 2, 2002 shall be determined in accordance with Section 21354.5 of said Retirement Law, subject to the reduction provided therein for service prior to December 31, 1972, termination of Social Security, for members whose service has been included in Federal Social Security (2.7% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
9. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local miscellaneous members and local fire members only.

PLEASE DO NOT WRITE EXHIBIT ONLY

- b. Section 20425 ("Local Police Officer" shall include employees of a police department who were employed to perform identification or communication duties on August 4, 1972 and who elected to be local safety members).
  - c. Section 20042 (One-Year Final Compensation).
  - d. Section 20965 (Credit for Unused Sick Leave).
  - e. Section 21024 (Military Service Credit as Public Service).
  - f. Section 20434 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services as described in Government Code Section 20434).
  - g. Section 20903 (Two Years Additional Service Credit).
  - h. Section 21427 (Improved Nonindustrial Disability Allowance) for local police members only.
  - i. Section 21548 (Pre-Retirement Optional Settlement 2 Death Benefit) for local police members only.
  - j. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local police members only.
10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1976. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
12. Public Agency shall also contribute to said Retirement System as follows:
- a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local fire members.
  - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local police members.



- c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF MILPITAS

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk